

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

SMARTPHONE TECHNOLOGIES, LLC,

Plaintiff,

v.

HTC CORPORATION, et al.,

Defendants.

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CIVIL ACTION NO. 6:10cv580
JURY TRIAL DEMANDED

AGREED MOTION TO AMEND DOCKET CONTROL ORDER DEADLINES

Plaintiff and all Defendants jointly file this agreed motion to amend certain docket control order deadlines and respectfully show the Court the following:

The stay in this action expired on September 15, 2011. (See Dkt. No. 121). Thus, the parties hereby submit the following proposed amendments to the Docket Control Order:

<p>Tuesday March 6, 2012</p>	<p><i>Markman</i> Hearing and hearing on any Motion for Summary Judgment of Indefiniteness for the six overlapping asserted patents with <i>Smartphone v. Research in Motion, et al.</i>, Case No.: 6:10-cv-00074-LED at 9 a.m. at the United States District Court, 211 W. Ferguson, Courtroom of Judge John Love, Tyler, Texas.</p>
<p>Thursday February 23, 2012</p>	<p>Comply with P.R. 4-5(d) – Chart for the six overlapping asserted patents with <i>Smartphone v. Research in Motion, et al.</i>, Case No.: 6:10-cv-00074-LED due. Parties shall jointly submit a claim construction chart on computer disk in WordPerfect format or in such a format as the Court may direct in accordance with P.R. 4-5(d).</p> <p>Reply to Motion for Summary Judgment of Indefiniteness due. If a technical advisor has been appointed the moving party is to provide their brief on disk or CD along with a hard copy, tabbed and bound in notebook format with exhibits to the advisor.</p> <p>Briefing shall comply with Local Rules CV-7 and 56 and Patent Rule 4-5(e). <u>Motions to extend page limits will only be granted in</u></p>

	<u>exceptional circumstances.</u>
Friday February 17, 2012	<p>Parties to file a notice with the Court stating the estimated amount of time requested for the <i>Markman</i> Hearing for the six overlapping asserted patents with <i>Smartphone v. Research in Motion, et al.</i>, Case No.: 6:10-cv-00074-LED. The Court will notify the parties if it is unable to accommodate this request.</p> <p>Comply with P.R. 4-5(c) - Reply brief and supporting evidence due re response to claim construction for the six overlapping asserted patents with <i>Smartphone v. Research in Motion, et al.</i>, Case No.: 6:10-cv-00074-LED. If a technical advisor has been appointed the moving party is to provide their brief on disk or CD along with a hard copy, tabbed and bound in notebook format with exhibits to the advisor.</p> <p>Response to Motion for Summary Judgment of Indefiniteness for the six overlapping asserted patents with <i>Smartphone v. Research in Motion, et al.</i>, Case No.: 6:10-cv-00074-LED due. If a technical advisor has been appointed the moving party is to provide their brief on disk or CD along with a hard copy, tabbed and bound in notebook format with exhibits to the advisor.</p> <p>Briefing shall comply with Local Rules CV-7 and 56 and Patent Rule 4-5(e). <u>Motions to extend page limits will only be granted in exceptional circumstances.</u></p>
Friday February 3, 2012	<p>Comply with P.R. 4-5(b) - Responsive brief and supporting evidence due to party claiming patent infringement for the six overlapping asserted patents with <i>Smartphone v. Research in Motion, et al.</i>, Case No.: 6:10-cv-00074-LED. If a technical advisor has been appointed the moving party is to provide their <i>Markman</i> brief on disk or CD along with a hard copy, tabbed and bound in notebook format with exhibits to the advisor.</p> <p>Motion for Summary Judgment of Indefiniteness for the six overlapping asserted patents with <i>Smartphone v. Research in Motion, et al.</i>, Case No.: 6:10-cv-00074-LED due. If a technical advisor has been appointed the moving party is to provide their brief on disk or CD along with a hard copy, tabbed and bound in notebook format with exhibits to the advisor.</p> <p>Briefing shall comply with Local Rules CV-7 and 56 and Patent Rule 4-5(e). <u>Motions to extend page limits will only be granted in exceptional circumstances.</u></p>

Monday January 9, 2012	Comply with P.R. 4-5 (a) – Opening <i>Markman</i> brief for the six overlapping asserted patents with <i>Smartphone v. Research in Motion, et al.</i> , Case No.: 6:10-cv-00074-LED.
Thursday December 22, 2011	Proposed Technical Advisors due. Parties to provide name, address, phone number, and curriculum vitae for up to three agreed technical advisors and information regarding the nominees' availability for <i>Markman</i> hearing or a statement that they could not reach an agreement as to any potential technical advisor. If the parties cannot agree on a technical advisor, they shall not submit any proposed technical advisors to the Court.
Monday December 19, 2011	Comply with P.R. 4-3 – Filing of Joint Claim Construction and Prehearing Statement for the six overlapping asserted patents with <i>Smartphone v. Research in Motion, et al.</i> , Case No.: 6:10-cv-00074-LED.
Tuesday December 6, 2011	Comply with P.R. 4-2 – Exchange of Preliminary Claim Constructions and Extrinsic Evidence for the six overlapping asserted patents with <i>Smartphone v. Research in Motion, et al.</i> , Case No.: 6:10-cv-00074-LED.
Wednesday November 16, 2011	Comply with P.R. 4-1 – Exchange Proposed Terms and Claim Elements for Construction for the six overlapping asserted patents with <i>Smartphone v. Research in Motion et al.</i> , Case No.: 6:10-cv-00074-LED.
Monday December 15, 2011	<p>Comply with P.R. 3-3 and 3-4– Invalidity Contentions due. Thereafter, it is necessary to obtain leave of Court to add and/or amend invalidity contentions, pursuant to Patent Rule 3-6.</p> <p>Defendant shall join additional parties. It is not necessary to file a motion to join additional parties prior to this date. Thereafter, it is necessary to obtain leave of Court to join additional parties.</p> <p>Defendant shall assert any counterclaims. After this deadline, leave of Court must be obtained to assert any counterclaims.</p> <p>Add any inequitable conduct allegations to pleadings. It is not necessary to file a motion for leave to add inequitable conduct</p>

	allegations to pleadings prior to this date. Thereafter, it is necessary to obtain leave of Court to add inequitable conduct allegations to pleadings.
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The May 31, 2012 *Markman* hearing date and all remaining dates (including pre-trial) will not be affected by these requested amendments. For the foregoing reasons, the parties request that the Court grant this agreed motion and revise the noted deadlines. A proposed order is attached.

Dated: October 7, 2011

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of October, 2011, I electronically filed the foregoing document with the clerk of the Court for the U.S. District Court, Eastern District of Texas, Tyler Division, using the Court's electronic case filing system. The electronic case filing system sent a "Notice of Electronic Filing" to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

/s/ Edward R. Nelson, III

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